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DRAFT REPORT OF THE COMMISSION

Rapporteur: Mr. François-Xavier NGOUBEYOU

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* E/CN.4/1994/L.10 and addenda will contain the chapters of the report relating to the organization of the session and the various items on the agenda. Resolutions and decisions adopted by the Commission, as well as draft resolutions and decisions for action by, and other matters of concern to, the Economic and Social Council will be contained in documents E/CN.4/1994/L.11 and addenda.

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A. Resolutions

1994/1. Israeli settlements in the occupied Arab territories

The Commission on Human Rights,

Recalling that, in accordance with article 13, paragraph 2, of the Universal Declaration of Human Rights, everyone has the right to leave any country, including his own, and to return to his country,

Reaffirming that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to Palestinian and all Arab territories occupied by Israel since 1967, including Jerusalem,

Recalling its resolutions 1990/1 of 16 February 1990, 1991/3 of 15 February 1991, 1992/3 of 14 February 1992 and 1993/3 of 19 February 1993 which, inter alia, reaffirmed the illegality of the Israeli settlements in the occupied territories,

Gravely concerned at the establishment by the Israeli Government of settlers in the occupied territories, which may change the physical character and demographic composition of the occupied territories,

Welcoming the positive development which originated with the International Peace Conference on the Middle East, convened at Madrid on 30 October 1991, including in particular the Declaration of Principles on Interim Self-Government Arrangements signed by the Israeli Government and the Palestine Liberation Organization on 13 September 1993, as well as all the efforts for the creation of a peaceful and stable environment in the Middle East,

Noting the report submitted by the Special Rapporteur pursuant to resolution 1993/2A of 19 February 1993 (E/CN.4/1994/14) and referring to information provided to him on confiscation of land by the Israeli authorities before and after the signing of the Declaration of Principles on 13 September 1993,

Convinced that a complete cessation by Israel of its policy of settlement would constitute, especially at the present stage of the process, a meaningful contribution to the creation of a peaceful and stable environment,

1. Reaffirms that the installation of Israeli civilians in the occupied territories is illegal and constitutes a violation of the relevant provisions of

the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949;

2. Regrets that the Government of Israel has not fully complied with the provisions of Commission on Human Rights resolutions 1990/1, 1991/3, 1992/3 and 1993/3;

3. Urges the Government of Israel to abstain from installing any settlers in the occupied territories.

30th meeting
18 February 1994
[Adopted by a roll-call vote of 49 to 1, with 1 abstention.]

1994/2. Human rights in the occupied Syrian Golan

The Commission on Human Rights,

Deeply concerned at the suffering of the population of the Syrian and other Arab territories occupied by Israel since 1967 and the continued Israeli military occupation, and that the human rights of the population continue to be violated,

Recalling Security Council resolution 497 (1981) of 17 December 1981, in which the Council, inter alia, decided that the Israeli decision to impose its laws, jurisdiction and administration in the occupied Syrian Golan was null and void and without international legal effect, and demanded that Israel should rescind forthwith its decision,

Recalling General Assembly resolutions 36/226 B of 17 December 1981, ES-9/1 of 5 February 1982, 37/88 E of 10 December 1982, 38/79 F of 15 December 1983, 39/95 F of 14 December 1984, 40/161 F of 16 December 1985, 41/63 F of 3 December 1986, 42/160 F of 8 December 1987, 43/21 of 3 November 1988, 43/58 F of 6 December 1988, 44/2 of 6 October 1989, 45/74 F of 11 December 1990, 46/47 F of 9 December 1991, 47/70 F of 14 December 1992 and 48/41 D of 10 December 1993,

Recalling also General Assembly resolution 3414 (XXX) of 5 December 1975 and other relevant resolutions in which the Assembly, inter alia, demanded the immediate, unconditional and total withdrawal of Israel from the Arab territories occupied since 1967,

Recalling further General Assembly resolution 3314 (XXIX) of 14 December 1974, in which it defined an act of aggression,

Reaffirming once more the illegality of Israel's decision of 14 December 1981 to impose its laws, jurisdiction and administration on the occupied Syrian Golan, which has resulted in the effective annexation of that territory,

Reaffirming that the acquisition of territory by force is inadmissible under the principles of international law and under the Charter of the United Nations and the relevant resolutions of the Security Council and the General Assembly, and that all territories thus occupied by Israel must be returned,

Taking note with deep concern of the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories (A/48/557) and, in this connection, deploring Israel's constant refusal to cooperate with and to receive the Special Committee,

Expressing its grave alarm, after considering the above-mentioned report of the Special Committee, over Israel's flagrant and persistent violations of human rights in the Syrian and other Arab territories occupied since 1967, despite the resolutions of the Security Council and the General Assembly which repeatedly called upon Israel to put an end to such occupation,

Reaffirming its previous relevant resolutions, the most recent being resolution 1993/1 of 19 February 1993,

Guided by the relevant provisions of the Charter of the United Nations and the Universal Declaration of Human Rights and with particular reference to the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the relevant provisions of the Hague Conventions of 1899 and 1907,

1. Strongly condemns Israel, the occupying Power, for its refusal to comply with the relevant resolutions of the General Assembly and the Security Council, particularly resolution 497 (1981), in which the Council, inter alia, decided that the Israeli decision to impose its laws, jurisdiction and administration on the occupied Syrian Golan was null and void and without international legal effect, and demanded that Israel, the occupying Power, should rescind forthwith its decision;

2. Condemns the persistence of Israel in changing the physical character, demographic composition, institutional structure and legal status of the occupied Syrian Golan, and emphasizes that the displaced persons of the population of the occupied Syrian Golan must be allowed to return to their homes and to recover their properties;

3. Determines that all legislative and administrative measures and actions taken or to be taken by Israel, the occupying Power, that purport to alter the character and legal status of the Syrian Golan are null and void, constitute a flagrant violation of international law and of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and have no legal effect;

4. Strongly condemns Israel for its attempt to impose forcibly Israeli citizenship and Israeli identity cards on the Syrian citizens in the occupied Syrian Golan and for its practices of annexation, establishment of settlements, confiscation of lands and diversion of water resources and imposing a boycott on their agricultural products; and calls upon Israel to desist from its settlement designs and policies aimed against academic institutions with the goal of serving the objectives of occupation, and to desist from its repressive measures against the population of the occupied Syrian Golan;

5. Calls once again upon Member States not to recognize any of the legislative or administrative measures and actions referred to in the present resolution;

6. Requests the Secretary-General to bring the present resolution to the attention of all Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations and to give it the widest possible publicity, and to report to the Commission on Human Rights at its fifty-first session;

7. Decides to include in the provisional agenda of its fifty-first session, as a matter of high priority, the item entitled "Question of the violation of human rights in the occupied Arab territories, including Palestine".

30th meeting
18 February 1994
[Adopted by a roll-call vote of 25 votes to 1, with 25 abstentions.]

1994/3. Question of the violation of human rights in the occupied Arab territories, including Palestine

A

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, as well as by the provisions of the Universal Declaration of Human Rights,

Guided also by the provisions of the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights,

Taking into consideration the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and the provisions of Additional Protocol I thereto, and the Hague Convention IV of 1907, as well as the principles of international law affirmed by the General Assembly in its resolutions 3 (I) of 13 February 1946, 95 (I) of 11 December 1946, 260 A (III) of 9 December 1948 and 2391 (XXIII) of 26 November 1968,

Recalling the relevant Security Council resolutions,

Recalling also the General Assembly resolutions on Israeli violations of human rights in occupied Palestine, since 1967 and until now,

Recalling further the provisions of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights,

Taking note with appreciation of the report of the Special Rapporteur, Mr. René Felber, regarding his mission undertaken in accordance with Commission resolution 1993/2 A of 19 February 1993 (E/CN.4/1994/14),

Taking note also of the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories submitted to the General Assembly since 1968,

Noting with great concern the continued Israeli refusal to abide by the resolutions of the Security Council, the General Assembly and the Commission on Human Rights,

Welcoming the signing of the Declaration of Principles on Interim Self-Government Arrangements by the Government of Israel and the Palestine Liberation Organization on 13 September 1993, whereby violations of human rights

will end through the full withdrawal of Israeli forces from the occupied Palestinian territories,

Recalling all its previous resolutions on the subject,

1. Deeply regrets the continued violations of human rights in the occupied Palestinian territory since the signing of the Declaration of Principles on Interim Self-Government Arrangements by the Government of Israel and the Palestine Liberation Organization on 13 September 1993;

2. Condemns the continued violations of the human rights of the Palestinian people in the Palestinian territory occupied by Israel with military force, including Jerusalem, and, in particular, the opening of fire by the Israeli army and settlers on Palestinian civilians that results in killing and wounding them; the imposition of restrictive economic measures; the demolition of houses; the expropriation of houses; collective punishment; arbitrary and administrative detention of thousands of Palestinians without trial; the confiscation of property of Palestinians; the expropriation of land; the prevention of travel; the closure of universities and schools; the perpetration of crimes of torture in Israeli prisons and detention centres; and the establishment of Israeli settlements in the occupied Palestinian territory;

3. Calls once more upon Israel, the occupying Power, to desist from all forms of violation of human rights in the Palestinian and other occupied Arab territories and to respect the bases of international law, the principles of international humanitarian law, and its commitments to the provisions of the Charter and resolutions of the United Nations;

4. Also calls upon Israel to withdraw from the Palestinian territory, including Jerusalem, and the other occupied Arab territories in accordance with the relevant resolutions of the United Nations and the Commission on Human Rights;

5. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations and international humanitarian organizations, to disseminate it on

the widest possible scale, and to report on its implementation by the Government of Israel to the Commission on Human Rights at its fifty-first session;

6. Also requests the Secretary-General to provide the Commission on Human Rights with all United Nations reports issued between sessions of the Commission that deal with the conditions in which the citizens of the Palestinian and other occupied Arab territories are living under the Israeli occupation;

7. Decides to consider the question at its fifty-first session as a matter of priority.

30th meeting
18 February 1994
[Adopted by a roll-call vote of 26 to 3, with 23 abstentions.]

B

The Commission on Human Rights,

Recalling Security Council resolutions related to the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to the Palestinian and other occupied Arab territories, which call for Israel's commitment to them,

Recalling all relevant General Assembly resolutions on the applicability to the occupied Palestinian territory of the Convention which urge Israel's commitment to and respect for their provisions,

Recalling also the decisions of the International Conference of the Red Cross and the International Conference for the Protection of War Victims (Geneva, 30 August - 1 September 1993) in respect of the application of the Convention in all circumstances and the statements of the International Committee of the Red Cross which condemn the continuous serious violations by Israel of the provisions of the Convention and its refusal to apply those provisions in the occupied territories,

Recalling further the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights,

Taking into account that States parties to the Convention undertake, in accordance with article 1 thereof, to respect, and ensure respect for, the Convention in all circumstances,

Recalling all its previous resolutions on the subject,

1. Reaffirms that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Palestinian and all other Arab territories occupied by Israel since 1967, including Jerusalem, and that Israel's long-standing refusal to apply the Convention to those territories had led to the perpetration by the Israeli authorities of grave violations of human rights against Palestinian citizens, and calls upon Israel to comply with its international commitments, to respect the Convention and to apply it in the occupied Palestinian territory, including Jerusalem;

2. Urges once more all States parties to the Convention to make every effort to ensure the Israeli occupation authorities' respect for and compliance with the provisions of the Convention in the Palestinian and all other Arab territories occupied by Israel since 1967, including Jerusalem, and to undertake the necessary practical measures to ensure the provision of international protection for the Palestinian people under occupation, in accordance with the provisions of article 1 and other relevant articles of the Convention;

3. Strongly condemns once more the refusal of Israel to apply the Convention to Palestine and the Arab territories occupied since 1967 and to their inhabitants, Israel's policies of perpetrating crimes of torture against Palestinian detainees and prisoners in Israeli prisons and detention camps and its continued deliberate disregard for the provisions of the Convention, in contravention of resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

4. Calls upon Israel to allow those who have been deported since 1967 to return to their homeland without delay in implementation of the resolutions of the Security Council, the General Assembly and the Commission on Human Rights;

5. Requests the Secretary-General to bring the present resolution to the attention of the Government of Israel and all other Governments, the competent United Nations organs, the specialized agencies, regional intergovernmental organizations, international humanitarian organizations and non-governmental organizations, and to report on progress in its implementation by the Government of Israel to the Commission on Human Rights at its fifty-first session;

6. Decides to consider the question at its fifty-first session as a matter of high priority.

30th meeting
18 February 1994
[Adopted by a roll-call vote of 26 to 1,
with 25 abstentions.]

1994/4. Middle East peace process

The Commission of Human Rights,

Recalling General Assembly resolution 48/58 on the Middle East peace process, adopted on 14 December 1993,

Recalling also the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights,

Stressing that the achievement of a comprehensive and lasting settlement of the Middle East conflict will constitute a significant contribution to the strengthening of international peace and security, and is an indispensable condition for the furthering of human rights in the region,

Recalling the convening of the International Peace Conference on the Middle East at Madrid on 30 October 1991, on the basis of Security Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973, and the subsequent bilateral negotiations, as well as the meetings of the multilateral working groups, and noting with satisfaction the broad international support for the peace process,

Noting the continuing positive participation of the United Nations as a full extraregional participant in the work of the multilateral working groups,

Bearing in mind the Declaration of Principles on Interim Self-Government Arrangements, signed by the Government of Israel and the Palestine Liberation Organization in Washington, D.C., on 13 September 1993,

1. Stresses the importance of, and need for, achieving a comprehensive, just and lasting peace in the Middle East;

2. Emphasizes that the achievement of such a peace is vital for the full implementation of human rights in the area;

3. Welcomes the peace process started at Madrid and supports the subsequent bilateral negotiations;

4. Expresses its full support for the achievements of the peace process thus far, in particular the Declaration of Principles on Interim Self-Government Arrangements, signed by the Government of Israel and the Palestine Liberation

Organization, and the Agreement between Israel and Jordan on the Common Agenda, which constitute an important initial step in achieving a comprehensive, just and lasting peace in the Middle East, and urges all parties to implement agreements reached;

5. Considers that an active United Nations role in the Middle East peace process and in assisting in the implementation of the Declaration of Principles can make a positive contribution.

30th meeting
18 February 1994
[Adopted by a roll-call vote of 48 to 2, with 2 abstentions.]

1994/5. Situation in occupied Palestine

The Commission on Human Rights,

Guided by the purposes and principles of the Charter of the United Nations, in particular the provisions of Articles 1 and 55 thereof, which affirm the right of peoples to self-determination, and scrupulous respect of the principle of refraining in international relations from the threat or use of force, as specified in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States adopted by the General Assembly in its resolution 2625 (XXV) of 24 October 1970, in accordance with the Charter of the United Nations,

Guided also by the provisions of article 1 of the International Covenant on Economic, Social and Cultural Rights and article 1 of the International Covenant on Civil and Political Rights, which affirm that all peoples have the right of self-determination,

Taking into consideration the provisions of the Declaration on the Granting of Independence to Colonial Countries and Peoples adopted by the General Assembly in its resolution 1514 (XV) of 14 December 1960,

Guided by the provisions of the Vienna Declaration and Programme of Action adopted by the United Nations World Conference on Human Rights, and in particular Part I, paragraphs 2 and 3 relating to the right of self-determination of all peoples and especially those subject to foreign occupation,

Noting Security Council resolutions 183 (1963) of 11 December 1963 and 218 (1965) of 23 November 1965, which affirmed the interpretation of the

principle of self-determination as laid down in General Assembly resolution 1514 (XV),

Recalling General Assembly resolutions 181 A and B (II) of 29 November 1947 and 194 (III) of 11 December 1948, as well as all other resolutions which confirm and define the inalienable rights of the Palestinian people, particularly their right to self-determination without external interference and to the establishment of their independent State on their national soil, especially Assembly resolutions ES-7/2 of 29 July 1980 and 37/86 E of 20 December 1982,

Reaffirming its previous resolutions in this regard,

Bearing in mind the reports and recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People which, from 1976 to 1993, have been submitted to the Security Council through the General Assembly,

Reaffirming the right of the Palestinian people to self-determination in accordance with the Charter of the United Nations, the relevant United Nations resolutions and declarations, and the provisions of international covenants and instruments relating to the right to self-determination as an international principle and as a right of all peoples in the world,

Expressing its grave concern at the persistence of Israel in preventing by force the Palestinian people from enjoying their inalienable rights, in particular their right to self-determination,

Recalling that the foreign occupation by the armed forces of a State of the territory of another State constitutes an obstacle and a grave violation of human rights according to part I, paragraph 30 of the Vienna Declaration and Programme of Action, and an act of aggression and a crime against the peace and security of mankind, according to General Assembly resolution 3314 (XXIX) of 14 December 1974,

Expressing its grave concern that no just solution has been achieved to the problem of Palestine, which has constituted the core of the Arab-Israeli conflict since 1948,

Welcoming the Declaration of Principles on Interim Self-Government Arrangements signed by the Government of Israel and the Palestine Liberation Organization on 13 September 1993, aimed at enabling the Palestinian people to

achieve their national rights and, principally, their right to self-determination free of external intervention,

1. Reaffirms the inalienable right of the Palestinian people to self-determination without external interference;

2. Calls upon Israel to comply with its obligations under the Charter of the United Nations and the principles of international law and to withdraw from the Palestinian and other Arab territories which it has occupied since 1967 by military force, including Jerusalem, in accordance with the relevant United Nations resolutions, so as to enable the Palestinian people to exercise their universally recognized right of self-determination;

3. Requests the Secretary-General to transmit the present resolution to the Government of Israel and to all other Governments, to distribute it on the widest possible scale and to make available to the Commission on Human Rights, prior to the convening of its fifty-first session, all information pertaining to the implementation of the present resolution by the Government of Israel;

4. Decides to include in the provisional agenda for its fifty-first session the item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation" and to consider the situation in occupied Palestine under that item, as a matter of high priority.

30th meeting
18 February 1994
[Adopted by a roll-call vote of 26 to 1, with 25 abstentions.]

1994/6. Question of Western Sahara

The Commission on Human Rights,

Having considered the question of Western Sahara,

Reaffirming the inalienable right of all peoples to self-determination and independence, in accordance with the principles set forth in the Charter of the United Nations and in General Assembly resolution 1514 (XV) of 14 December 1960, containing the Declaration on the Granting of Independence to Colonial Countries and Peoples,

Recalling its earlier resolutions, the latest of which is resolution 1993/17 of 26 February 1993,

Recalling also the agreement in principle given on 30 August 1988 by the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y Río de Oro to the proposals of the Secretary-General of the United Nations and the current Chairman of the Conference of Heads of State and Government of the Organization of African Unity, in the framework of their joint mission of good offices,

Recalling further Security Council resolutions 621 (1988) of 20 September 1988, 658 (1990) of 27 June 1990, 690 (1991) of 29 April 1991 and 725 (1991) of 31 December 1991 relating to the question of Western Sahara,

Recalling with satisfaction the entry into force of the cease-fire in Western Sahara on 6 September 1991, in accordance with the proposal of the Secretary-General accepted by both parties,

Taking note of the adoption of resolution 809 (1993) by the Security Council on 2 March 1993,

Noting the letter dated 4 August 1993 from the President of the Security Council addressed to the Secretary-General (S/26239),

Considering that the holding of talks between the two parties in Laayoune from 17 to 19 July 1993 is a positive development,

Having examined the relevant chapter of the report of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples (A/48/23 (Part V), chapter IX),

Having also examined the report of the Secretary-General (A/48/426),

1. Takes note with appreciation of the report of the Secretary-General;

2. Pays tribute to the Secretary-General and his Special Representative for their action with a view to settling the question of Western Sahara through the implementation of the settlement plan;

3. Reaffirms its support for the efforts which the Secretary-General will continue to make for the organization and supervision by the United Nations, in cooperation with the Organization of African Unity, of a referendum for self-determination of the people of Western Sahara, in accordance with resolutions 658

(1990) and 690 (1991), in which the Security Council adopted the settlement plan for the question of Western Sahara;

4. Endorses the content of the letter dated 4 August 1993 (S/26239) from the President of the Security Council addressed to the Secretary-General, in which the members of the Security Council among other things fully support the Secretary-General's efforts to make early progress on the preparations for holding the referendum in accordance with Council resolution 809 (1993), note that the Identification Commission has begun preparatory work, welcome the reaffirmation by the two parties of their commitment to the implementation of the peace plan in its entirety, and, in particular, their encouraging responses to his compromise proposal concerning the interpretation and application of the criteria, and share the Secretary-General's hope that direct talks between the two parties will soon resume;

5. Recalls that the General Assembly has requested the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to consider the situation in Western Sahara, bearing in mind the ongoing referendum process, and to report thereon to the Assembly at its forty-ninth session;

6. Decides to follow the development of the situation in Western Sahara and to consider the question at its fifty-first session, as a matter of high priority, under the agenda item entitled "The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation".

30th meeting
18 February 1994
[Adopted without a vote.]

1994/7. Use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination

The Commission on Human Rights,

Recalling the purposes and principles enshrined in the Charter of the United Nations concerning the strict observance of the sovereign equality, political independence and territorial integrity of States and the self-determination of peoples, as well as the need for scrupulous respect for the

principle of the non-use of force or threat of use of force in international relations as developed in the Declaration on the Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV)),

Recognizing that mercenaries are used for activities which violate these principles,

Alarmed at the continuing trend of unlawful international activities involving mercenaries in the perpetration of violent actions inimical to the constitutional order of States,

Concerned at the grave menace that the increasing activities of mercenaries represent for many States, particularly African States,

Gravely concerned at the loss of life, the damage to property and the negative effects on the economies of affected States, in the southern African region and elsewhere,

Convinced that it is necessary to develop international cooperation among States for the prevention, prosecution and punishment of such offences,

1. Takes note with appreciation of the report of the Special Rapporteur (E/CN.4/1994/23) on the use of mercenaries and the concern expressed therein at the continuation of the activities of mercenaries despite resolution 1993/5 of 19 February 1993 of the Commission;

2. Reaffirms that the recruitment, use, financing and training of mercenaries should be considered as offences of grave concern to all States;

3. Urges all States to prevent mercenaries from using any part of their territories to destabilize or to threaten the territorial integrity of any sovereign State;

4. Calls upon all States that have not yet done so to consider taking early action to ratify the International Convention against the Recruitment, Use, Financing and Training of Mercenaries;

5. Requests the Special Rapporteur to report to the Commission at its fifty-first session on all further developments on the use of mercenaries, wherever that may occur;

6. Urges all States to cooperate with the Special Rapporteur in the fulfilment of his mandate;

7. Requests the Special Rapporteur to make specific recommendations on effective measures to combat the activities of mercenaries;

8. Requests the Secretary-General to provide the Special Rapporteur with all necessary assistance for the fulfilment of his mandate.

30th meeting
18 February 1994
[Adopted by 35 votes to 1, with 15 abstentions.]

1994/8. Monitoring and assisting the transition to democracy in South Africa

The Commission on Human Rights,

Recalling Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1992/6 of 21 August 1992,

Taking note of Economic and Social Council resolution 1993/45 of 28 July 1993 in which the Council authorized the Sub-Commission to entrust Ms. Judith Sefi Attah with the task of presenting annually a report on the transition to democracy in South Africa,

Conscious of General Assembly resolution 48/1 of 8 October 1993 on the lifting of economic sanctions against South Africa and resolution 48/159 of 20 December 1993 on the elimination of apartheid and establishment of a united, democratic and non-racial South Africa in which the Assembly called upon all Governments to observe fully the mandatory arms embargo imposed by the Security Council,

Welcoming the progress made so far by the Government of South Africa towards the holding of the first non-racial elections,

Having considered the report of the Special Rapporteur (E/CN.4/Sub.2/1993/11/Add.1) highlighting the progress made so far by the Government of South Africa and the likely impediments to a smooth transition to democracy in South Africa,

Concerned about the danger posed by the continuing incidence of violence and political intolerance which might impede the smooth transition to democracy,

Mindful of the other impediments to the smooth democratization of South Africa including, inter alia, the legacy of apartheid which denied the majority of Africans equal access to the realization of their economic, social, cultural, civil and political rights,

1. Takes note with appreciation of the report of the Special Rapporteur (E/CN.4/Sub.2/1993/11/Add.1) on the positive developments in South Africa;

2. Stresses the importance of the removal of all obstacles to the transition to democratic rule in South Africa;

3. Also stresses the need for the Government of South Africa to create an environment conducive to the realization by the individual of his/her economic, social and cultural rights and the exercise of his/her civil and political rights;

4. Calls upon all States to comply fully with the arms embargo imposed by the Security Council on South Africa until the Security Council decides otherwise;

5. Endorses all the recommendations of the Special Rapporteur contained in her report and requests the Secretary-General to ensure their speedy implementation;

6. Calls upon the Centre for Human Rights to make available, on request, its programme of advisory services and technical assistance to the democratically elected Government of South Africa;

7. Requests the Special Rapporteur to undertake two missions to South Africa in 1994 to gain further insights into the whole process of transition to democracy in South Africa and to report to the Commission at its fifty-first session;

8. Requests the Secretary-General to provide the Special Rapporteur with all the necessary assistance to enable her to carry out this mandate;

9. Decides, in view of the changing situation in South Africa, to replace the agenda item entitled "Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist regime in South Africa" with an item entitled "Monitoring and assisting the transition to democracy in South Africa";

10. Also decides to consider the issues to be raised by the Special Rapporteur in her report to the fifty-first session of the Commission under the new agenda item.

30th meeting
18 February 1994
[Adopted without a vote.]

1994/9. Implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination

The Commission on Human Rights,

Reaffirming the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Reaffirming its conviction that racism, racial discrimination and apartheid constitute a total negation of the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights,

Reaffirming its firm determination and its commitment to eradicate totally and unconditionally racism in all its forms, racial discrimination and apartheid,

Recalling its resolution 1993/11 of 26 February 1993,

Recalling the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid and the Convention against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization on 14 December 1960,

Bearing in mind General Assembly resolutions 3057 (XXVIII) of 2 November 1973, on the First Decade for Action to Combat Racism and Racial Discrimination, and 38/14 of 22 November 1983, on the Second Decade to Combat Racism and Racial Discrimination,

Recalling the two World Conferences to Combat Racism and Racial Discrimination, held at Geneva in 1978 and 1983,

Welcoming the outcome of the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, and, in particular, the attention given to the programme of action for the elimination of racism, racial discrimination, xenophobia and related intolerance,

Welcoming also the decision by the Economic and Social Council to appoint a special rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance,

Bearing in mind the measures taken by the South African authorities to repeal or amend the major laws which had constituted the pillars of apartheid, as

well as the progress made towards the establishment of a democratic, non-racial and united South Africa,

Convinced of the need to ensure and support the peaceful transition towards a democratic and non-racial South Africa,

Reaffirming the Declaration on Apartheid and its Destructive Consequences in Southern Africa, unanimously adopted by the General Assembly at its sixteenth special session, on 14 December 1989, which offers guidelines on how to end apartheid,

Noting with grave concern that, despite the efforts of the international community, the principal objectives of the two Decades to Combat Racism and Racial Discrimination have not been attained and that millions of human beings continue to this day to be the victims of varied forms of racism, racial discrimination and apartheid,

Recognizing the importance of strengthening, where necessary, national legislation and institutions for the promotion of racial harmony,

Aware of the importance and the magnitude of the phenomenon of migrant workers, as well as the efforts undertaken by the international community to improve the protection of the human rights of migrant workers and members of their families,

Recalling the adoption by the General Assembly at its forty-fifth session of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,

Aware that indigenous people are at times victims of particular forms of racism and racial discrimination,

Welcoming General Assembly resolution 48/91 of 20 December 1993, whereby the General Assembly decided to proclaim a Third Decade to Combat Racism and Racial Discrimination, beginning in 1993, and to adopt the Programme of Action proposed for the Third Decade,

Taking note of the Secretary-General's note (E/CN.4/1994/63) transmitting the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination,

1. Declares that all forms of racism and racial discrimination, particularly in their institutionalized form, such as apartheid, or resulting

from official doctrines of racial superiority or exclusivity, are among the most serious violations of human rights in the contemporary world and must be combated by all available means;

2. Commends all States that have ratified or acceded to the relevant international instruments to combat racism and racial discrimination;

3. Appeals to those States that have not yet done so to consider ratifying, acceding to and implementing the relevant international instruments, particularly the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Suppression and Punishment of the Crime of Apartheid and the Convention against Discrimination in Education;

4. Urges all Governments to take all necessary measures to combat new forms of racism, in particular by ongoing adjustment of the methods used to combat them;

5. Invites all Governments and international and non-governmental organizations to increase and intensify their activities to combat racism, racial discrimination and apartheid and to provide relief and assistance to the victims of these evils;

6. Invites the Secretary-General to take action to coordinate all the programmes currently being carried out by United Nations bodies with a view to achieving the objectives of the Third Decade;

7. Requests the Secretary-General to continue to accord special attention to the situation of migrant workers and members of their families and to include regularly in his reports all information on such workers;

8. Also requests the Secretary-General to continue the study on the effects of racial discrimination on the children of minorities and those of migrant workers in the field of education, training and employment, and to submit, inter alia, specific recommendations for the implementation of measures to combat the effects of that discrimination;

9. Calls upon all member States to consider signing and ratifying or acceding to the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families as a matter of priority, with a view to its soon being able to enter into force;

10. Urges the Secretary-General, United Nations bodies and specialized agencies, all Governments, intergovernmental organizations and relevant non-governmental organizations in implementing the Programme of Action for the Third Decade, to pay particular attention to the situation of indigenous peoples;

11. Requests the Secretary-General to publish and distribute as soon as possible the revised model legislation for the guidance of Governments in the enactment of further legislation against racial discrimination;

12. Invites the United Nations Educational, Scientific and Cultural Organization to expedite the preparation of teaching materials and teaching aids to promote teaching, training and education activities on human rights and against racism and racial discrimination, with particular emphasis on activities at the primary and secondary levels of education;

13. Regrets that some of the activities scheduled for the Second Decade to Combat Racism and Racial Discrimination have not been implemented because of lack of adequate resources;

14. Calls upon the international community to provide the Secretary-General with appropriate financial resources for efficient action against racism and racial discrimination;

15. Invites all Governments, United Nations bodies, the specialized agencies and other intergovernmental organizations, as well as interested non-governmental organizations in consultative status with the Economic and Social Council, to participate fully in the Third Decade to Combat Racism and Racial Discrimination;

16. Considers that voluntary contributions to the Trust Fund for the Programme for the Decade to Combat Racism and Racial Discrimination are indispensable for the implementation of the Programme;

17. Strongly appeals, therefore, to all Governments, organizations and individuals in a position to do so to contribute generously to the Trust Fund, and to this end requests the Secretary-General to continue to undertake appropriate contacts and initiatives to encourage contributions;

18. Requests the Secretary-General to ensure that the necessary financial resources are provided for the implementation of the activities of the Third Decade during the biennium 1994-1995;

19. Takes note of the report of the Secretary-General on the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (A/48/423);

20. Recommends that the activities mentioned in the report of the Secretary-General be undertaken during the Third Decade to Combat Racism and Racial Discrimination and be reviewed at mid-term;

21. Welcomes the establishment of a focal point within the United Nations Centre for Human Rights, which will be responsible for reviewing information concerning activities carried out within the framework of the Third Decade and making specific recommendations on activities to be undertaken;

22. Requests the Secretary-General to submit to the Commission on Human Rights a detailed annual report on:

(a) all activities of United Nations bodies and the specialized agencies, analysing information received on such activities to combat racism and racial discrimination;

(b) measures to be taken to improve the coordination of the activities of the Programme of Action or to supplement, on the basis of the discussions in plenary, the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination;

23. Recalls how important it is to assign the highest priority to the activities of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination aimed at monitoring the transition from apartheid to a non-racial society in South Africa;

24. Calls upon all Governments to encourage further positive change in South Africa based on the guidelines set out in the Declaration on Apartheid and its Destructive Consequences in Southern Africa, in particular by adopting effective measures to support and ensure the peaceful transition to a non-racial and democratic society in South Africa;

25. Decides to consider at its fifty-first session, as a matter of high priority, the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination.

30th meeting
18 February 1994
[Adopted without a vote.]

1994/10. Situation of human rights in South Africa

The Commission on Human Rights,

Recalling its resolutions 1989/5 of 23 February 1989, 1990/26 of 27 February 1990, 1991/21 of 1 March 1991, 1992/19 of 28 February 1992 and 1993/9 of 26 February 1993,

Recalling the Declaration on Apartheid and its Destructive Consequences in Southern Africa, adopted by the General Assembly in resolution S-16/1 of 14 December 1989, and the need for the full implementation of its provisions,

Recalling also the report of the Special Committee against Apartheid (A/48/22), the fourth report of the Secretary-General on progress made in the implementation of the Declaration (A/48/691), as well as the reports of the Secretary-General on the coordinated approach by the United Nations system on the questions relating to South Africa (A/48/467 and Add.1) and on the concerted and effective measures aimed at eradicating apartheid (A/46/499),

Having examined the interim report of the Ad Hoc Working Group of Experts on southern Africa (E/CN.4/1994/15),

Welcoming the positive political developments that have taken place within the framework of the resumed multi-party negotiations providing for the holding of elections on 26-28 April 1994 and the establishment of the Transitional Executive Council, the finalization of the Constitution for the Transitional Period and the subsequent measures to create the Independent Electoral Commission and the Independent Broadcasting Authority,

Welcoming also the endorsement by the parties in the multi-party negotiations of the Constitution for the Transitional Period and the Electoral Bill,

Noting with satisfaction that in the Constitution for the Transitional Period cognizance has been taken of the large number of international instruments in respect of human rights,

Noting that while positive measures have been taken by the Government of South Africa, including the repeal of some major apartheid laws and the revision of the security legislation, important obstacles to the achievement of a climate conducive to the exercise of free political activity still remain,

Noting also that while positive steps have been taken by the Government of South Africa towards changing the racial education system, many obstacles still persist,

Gravely concerned that persistent violence continues to threaten and to undermine the process of peaceful change through peaceful elections due to take place on 26-28 April 1994,

Stressing the need to strengthen and reinforce the mechanisms set up in South Africa under the National Peace Accord, and emphasizing the need for all parties to cooperate in combating violence, exercising restraint and taking part in the forthcoming elections,

Welcoming the adoption of part I, paragraph 16 and part II, paragraph 19 of the Vienna Declaration and Programme of Action by the World Conference on Human Rights in which the World Conference welcomed the progress made in dismantling apartheid and deplored the continuing acts of violence aimed at undermining the quest for a peaceful dismantling of apartheid,

Welcoming also the enhanced attention given by the international community to the question of violence in South Africa and especially the deployment in South Africa of observers from the United Nations, the Organization of African Unity, the Commonwealth and the European Union to further the purposes of the National Peace Accord and the forthcoming elections,

Welcoming further the positive development of granting citizenship to the inhabitants of the so-called "homelands", while noting that reforms aimed at incorporating them in the legal, political and administrative framework of South Africa have yet to be fully implemented,

Concerned that detention without charge remains possible in law, for example under sections 29 and 50 of the Internal Security Act, as well as under the Public Safety Act,

Stressing the importance of the powers exercised by the Minister of Law and Order to declare unrest and to impose emergency regulations being subjected to control by the Transitional Executive Council,

Deeply concerned that certain right-wing parties and/or the Freedom Alliance and some territories have threatened to boycott the forthcoming elections,

Gravely disturbed at the socio-economic inequalities in South Africa and at the accumulated negative impact of apartheid on the social, economic and cultural rights of the majority of the people of South Africa, with particularly harmful effects on women and children,

Welcoming the successful negotiations between the Government of South Africa and the main parties concerned aimed at working out modalities for a non-racial, democratic constitution and the creation of the Transitional Executive Council,

Recognizing the important role the international community and the Centre for Human Rights could play in assisting the new Government and the people of South Africa in overcoming the legacy of apartheid and promoting respect for all human rights, including civil, cultural, economic, political and social rights,

1. Takes note of the interim report of the Ad Hoc Working Group of Experts on southern Africa, and commends the Working Group for the updated documentation of the situation of human rights in South Africa;

2. Reaffirms its support for the legitimate struggle of the South African people for the total eradication of apartheid through peaceful means and their right to establish a non-racial, democratic system which is consistent with the International Bill of Human Rights;

3. Calls upon the South African authorities to exercise effectively their responsibility to maintain law and order, to stop the violence, to prosecute its perpetrators and to protect all citizens, irrespective of their political affiliation;

4. Also calls upon all parties to refrain from further acts of violence;

5. Strongly urges the Government of South Africa to implement fully the recommendations of the Commission of Enquiry into Public Violence and Intimidation (the Goldstone Commission) and to cooperate with that Commission with a view to carrying out further investigations into the functioning and operation of the security forces and other existing armed units;

6. Commends the Secretary-General for the measures taken to address areas of concern relating to the elections scheduled for 26-28 April 1994, and invites him to accelerate contingency planning for the role of the United Nations;

7. Supports the recommendations of the Secretary-General for the deployment of observers in South Africa to further the purposes of the National

Peace Accord, and urges him to continue to address all the areas of concern noted in his reports which fall within the purview of the United Nations;

8. Urges all parties to implement as a matter of urgency the agreement to grant a general unconditional amnesty to all those sentenced for anti-apartheid activities which are regarded as politically motivated;

9. Appeals to the international community to assist and enhance the role of humanitarian and human rights groups in extending assistance to victims of apartheid and released political prisoners and in monitoring the situation of human rights in South Africa;

10. Urges the South African authorities to expedite the legal and administrative measures to abolish speedily and unconditionally all the remaining "homelands" and the "bantustan system" and reincorporate them in South Africa, and to ensure that the populations in those territories can freely participate in the elections and that all political parties will be able to conduct election campaigns without fear of intimidation;

11. Also urges the South African authorities to ensure that no parties are permitted to disrupt the democratic process leading to the elections scheduled for 26-28 April 1994 and to ensure that an adequate number of electoral booths are installed throughout the territory of South Africa;

12. Further urges the South African authorities to address seriously and urgently the problem of landlessness and the gross inequalities in land ownership in order to create an atmosphere of lasting stability in South Africa;

13. Urges once again the South African authorities to repeal the remaining discriminatory apartheid laws, introduce the necessary legal and administrative measures to correct entrenched socio-economic inequalities and implement and enforce without delay that legislation in the areas of education, health, housing, social welfare and domestic and farm work;

14. Invites the new Government of South Africa to adopt and ratify the important international human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in addition to those it has already signed;

15. Calls for the replacement of the present racial education system with a non-racial education system;

16. Calls upon the international community to support through appropriate measures the fragile and critical process of transition under way in South Africa;

17. Reiterates the call to all Governments to observe fully the mandatory arms embargo and the request to the Security Council to continue to monitor effectively the implementation of the embargo, as decided in Security Council resolutions 418 (1977) of 4 November 1977, 558 (1984) of 13 December 1984 and 591 (1986) of 28 November 1986;

18. Urges all parties in South Africa, including those which did not participate fully in the multi-party negotiations, to respect agreements reached during the talks, to recommit themselves to democratic principles, to take part in the elections and to resolve outstanding issues by peaceful means only;

19. Strongly urges the international community, following the adoption by the General Assembly of resolution 48/1 on 8 October 1993, to respond generously and positively to the appeal by the people of South Africa for assistance in the economic reconstruction of their country and to ensure that the new South Africa begins its existence on a firm economic basis;

20. Supports the efforts of the Secretary-General, together with all the parties concerned, to implement effectively plans for the role of the United Nations in the election process in coordination with the observer missions of the Organization of African Unity, the Commonwealth, the European Union and observers from non-governmental organizations;

21. Urges the Government of South Africa, together with all parties, to create a fair and impartial judiciary and to rehabilitate, develop and train a new police force whose primary role would be to maintain law and order;

22. Calls upon the Centre for Human Rights to respond at the appropriate time, as guided by the Secretary-General, to the needs of the changing situation in South Africa during the period of transition, in accordance with General Assembly resolutions 47/116 A of 18 December 1992 and 48/159 A of 20 December 1993;

23. Calls for the definitive abolition of sections 29 and 50 of the Internal Security Act and other remaining repressive regulations such as the Public Safety Act of 1953 which are inconsistent with the new democratic society of South Africa;

24. Requests the Centre for Human Rights to place at the disposal of the new Government and the people of South Africa its experience in advisory services to assist in the preparation of a programme of technical cooperation in the field of human rights aimed at promoting respect for all human rights, overcoming the legacy of apartheid, raising the capacity of members of the disadvantaged communities, with particular attention to women and children, and strengthening democratic institutions, especially through education, training and information;

25. Requests the bodies and agencies of the United Nations system to contribute to the preparation and implementation of a programme of technical cooperation in the field of human rights and social and economic development, including the programme of the International Labour Organisation, in order to change the labour laws so that they are in conformity with the international labour standards;

26. Requests the Ad Hoc Working Group of Experts to continue, in cooperation with the Special Committee against Apartheid and other investigatory and monitoring bodies, to examine the situation regarding the violations of human rights in South Africa including, in particular, reports of torture, ill-treatment and deaths of detainees, infringements of trade-union rights, as well as the situation of women and children;

27. Welcomes the invitation by the Government of South Africa to the Ad Hoc Working Group of Experts to visit South Africa later this year to gather information from individuals and organizations in order to ascertain the situation of human rights in South Africa;

28. Requests the South African authorities to guarantee free and confidential access to any individual and organization and to provide a firm undertaking that any person or organization providing evidence would be granted immunity from any State action;

29. Requests the Ad Hoc Working Group of Experts to submit a preliminary report to the General Assembly at its forty-ninth session and its final report to the Commission on Human Rights at its fifty-first session.

31st meeting
18 February 1994
[Adopted without a vote.]